

CHARLES KOCH FOUNDATION GIFT AGREEMENT

This Charles Koch Foundation Gift Agreement (Agreement), including the proposal attached as Attachment A, is made this 20th day of September, 2016 between and among Western Carolina University Foundation (Foundation), a North Carolina nonprofit corporation; Western Carolina University (University), a constituent institution of the University of North Carolina; and the Charles Koch Foundation, a Kansas based non-profit corporation (Donor). Foundation, University, and Donor shall be collectively referred to as the "Parties." The Parties agree as follows:

I. Promoting Academic Freedom.

The Donor's gift is intended to help contribute to an environment at the University where ideas can be exchanged freely to the benefit and well being of individuals and society. Thus, the Parties agree that the academic freedom of the University of North Carolina system, as defined by UNC Policy Manual 500.1; the University, as defined by its policies; the Center for the Study of Free Enterprise (Center); and their faculty, students, and staff is critical to the success of both the University's and the Center's research, scholarship, educational, teaching and service mission, and the Parties shall not take any action that has the effect of infringing on the independence or integrity of the University or on the academic freedom of its personnel. The Parties affirm that matters of curriculum; University personnel; and Center activities are the sole purview of the University's faculty and administration.

II. Center for the Study of Free Enterprise.

The University has received approval from its Board of Trustees for the establishment of the Center. The University has informed the Donor that the Center's mission is to provide economics research and thought leadership on issues pertaining to the institutional priority of economic development in North Carolina, the region, and beyond, by conducting scholarly inquiry, policy analysis, educational activities, and community outreach on the role of free enterprise in a flourishing society.

It is the University's desire to support the Center to the extent permitted by applicable UNC and University policies, including, but not limited to, Chapter 400.5 of The Policy Manual of The University of North Carolina and Western Carolina University Policy 105 - Centers and Institutes. The University and the Foundation shall use any funds received under this Agreement to support the Center and its activities in accordance with this Agreement.

University shall endeavor to use reasonable best efforts to ensure the viability of the Center beyond the life of this Agreement.

III. Donor Commitment.

a. Gift. Subject to Section VII.a and the terms of this Agreement, the Donor hereby pledges to the Foundation a gift (Gift) of up to One Million Eight Hundred Thousand Dollars (\$1,800,000.00), which as provided for herein is designated for the benefit of the Center activities pursuant to the "Center Funding" listed in the below table.

Center Funding	Amount
Salary and benefits for administrative and support personnel	Up to \$500,000.00
Research reports on timely economic development policies	Up to \$200,000.00
Scholarships for affiliated students	Up to \$300,000.00
Research seminars, workshops, speaker series, teacher training seminars, conferences, and other events; Publishing, distribution, outreach; Student travel and faculty travel to present at conferences, on college campuses, and before business & community groups.	Up to \$800,000.00

Total Maximum Aggregate Contributed Amount: Up to \$1,800,000.00

b. Gift Expectation. This Gift is directly in support of the Center that the University has established. If the Center ceases to exist during the life of this Agreement, the Donor shall be under no obligation to continue with the commitment described herein.

c. Gift Commitment Schedule. For the initial installment the parties consider the Attachment A proposal as the initial request. For the second and subsequent installments, the University shall submit an annual report pursuant to Section VI below and an accompanying request letter. If the Donor approves the University request letter, the Donor shall make a contribution and the Foundation agrees to accept on behalf of the University an amount up to the Yearly Gift Amount Maximum listed in the proposed schedule below. If the Donor does not approve the University request letter, the Donor shall notify the Foundation and the University as stated in Section VII.a. The University may request less than the Yearly Gift Amount Maximum if, in its sole determination, a lesser amount would suffice to sustain the Center and its mission.

Foundation Proposed Request Date	Donor Response and Proposed Contribution Date	Yearly Gift Amount Maximum
On or about November 4, 2016	Request letter submitted no later than 45 days prior to target date.	\$360,000.00
On or about April 1, 2017	On or about July 1, 2017	\$360,000.00
On or about April 1, 2018	On or about July 1, 2018	\$360,000.00
On or about April 1, 2019	On or about July 1, 2019	\$360,000.00
On or about April 1, 2020	On or about July 1, 2020	\$360,000.00

IV. Contributed Amount To Be Used Only for Educational Purposes for the Center activities.

a. Gift Purpose. The Gift will be expended pursuant to the Center Funding listed in Section III.a, which are educational in nature as described in section 170(c)(2)(B) of the Internal Revenue Code. (IRS Code) Specifically, the Gift shall be used to support the Center activities as described in this Agreement, specifically Section III.a. The Center activities shall support the University's mission, initiative, and directives particularly in contributing to the economic development of the region and the State of North Carolina.

b. Prohibited Gift Purpose(s). In addition to academic freedom and matters of the curriculum discussed elsewhere in this Agreement, the Gift will not be used to influence legislation, to influence the outcome of any election, for a political campaign or intervention, to carry on any voter registration drive, or any other purpose that would jeopardize the Parties' institutional independence; integrity; or Donor's tax-exempt status or subject the Donor to penalties under Chapter 42 of the IRS Code.

V. Publicity

The Parties shall permit each other to review and approve the text of any proposed publicity regarding the Gift that includes or mentions any of the Parties.

VI. Reporting and Stewardship.

The University shall exclusively prepare an annual report (Annual Report) accounting of the expenditure of the Gift funds previously received. The Annual Report shall be provided to the Foundation and the Donor no later than forty-five (45) days prior to the Donor's scheduled Gift funds grant date as stated in Section III.c above. Upon review and approval of the Annual Report but no later than the listed date, the Donor shall make a gift to the Foundation up to the amount listed in the table included in Section III.c above. The Foundation shall accept the gift on behalf of the University pursuant to this Agreement.

VII. General Provisions.

a. The Donor has the right to terminate this Agreement or decline to provide any contribution in response to a Foundation request letter if, in its reasonable discretion, (i) the Gift is not being used for the Center's mission as defined by Section II or (ii) the University has materially breached this Agreement. Such termination or decision not to provide any contribution in response to a Foundation request letter will be effective upon the expiration of thirty (30) days from the date notice was provided by the Donor to the Foundation or the University. If this Agreement is terminated, the Donor may cease any and all payment of the Gift to the Foundation. Any Gift funds in the possession of the Foundation and/or the University

shall remain in the possession of the Foundation and/or the University and shall be used pursuant to this Agreement until those Gift funds have been expended.

b. The term of this Agreement shall begin on the Effective Date and shall continue for five (5) years (Term) unless earlier terminated pursuant to this Agreement.

c. The Parties explicitly agree that this Agreement is a public document as defined by the North Carolina Public Records Act, NCGS §132-1. As such, this Agreement shall be made available to the public upon request.

d. According to IRS records, the Foundation is an organization described within the meaning of Internal Revenue Code (the "Code") sections 501(c)(3) and 509(a)(1). The University has furnished the Donor with records showing that it is an organization described in Code section 170(c)(1) or 511(a)(2)(B). The Foundation and the University agree to immediately notify the Donor if their respective tax statuses change.

e. The terms contained in this Agreement supersede all prior oral or written agreements and understandings between the Parties related to the matters contained in this Agreement and shall constitute the entire agreement between the Parties with respect to the matters contained in this Agreement.

f. In the event of a conflict between the provisions stated in the body of this Agreement and those stated in any Proposal or the University's Charter for Establishing a New Center, this Agreement shall control.

g. The provisions of this Agreement are deemed severable and should any part, term, or provision of this Agreement be construed by any court of competent jurisdiction to be illegal, invalid, or unenforceable, the legality, validity, and enforceability of the remaining parts, terms, and provisions will not be affected thereby.

h. No delay or failure on any Party's part to enforce any right or claim which it may have hereunder shall constitute a waiver of such right or claim. Any waiver by any Party of any term, provision, or condition of this Agreement, or of any subsequent default under this Agreement in any one or more instances shall not be deemed to be a further or continuing waiver of such term, provision, or condition or of any subsequent default hereunder.

i. The Foundation and the University may not transfer or assign their respective interests in the Agreement or any amount to be contributed pursuant to this Agreement without the express written consent of the Donor.

j. All notices, approvals, or requests in connection with this Agreement shall be in writing and shall be deemed given when delivered to a United States postal service post box and/or other delivery services.

k. By mutual consent of the Parties, the Donor's legally or duly appointed agent or attorney-in-fact, or the personal representative of the Donor's estate, any provision of this Agreement may

be amended, modified, or deleted. Any such changes, deletions or additions shall be recorded in written signed addenda, which shall form part of this Agreement. This Agreement shall not be modified or amended except by a writing duly executed by the Parties to this Agreement.

l. In the event of a conflict between this Agreement and any other writing/agreement that is or is perceived to be a part of this Agreement, this Agreement shall control.

m. This Agreement may be executed in several counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one agreement or direction. Copies of signatures (whether facsimile or other electronic transmission) to this Agreement shall be deemed to be originals and may be relied upon to the same extent as the originals.

VIII. Notices

If to the **Foundation**
Western Carolina University Foundation
1 University Way
Cullowhee, NC 28723
Attn: Michael Byers
Treasurer

If to the **University**
Western Carolina University
1 University Way
Cullowhee, NC 28723
Attn: David O. Belcher
Chancellor
CC: Legal Counsel Office

If to the **Donor**:
Charles Koch Foundation
1320 N. Courthouse Road, Suite 500
Arlington, VA 22201
Attn: Grants Administrator
CC: General Counsel's Office

SIGNATURES ON PAGE 6

In witness whereof, the Parties to this Agreement have affixed their signatures:

**WESTERN CAROLINA UNIVERSITY
FOUNDATION**

By: Lori A. Lewis

Name: Lori A. Lewis

Title: Executive Secretary

Date: 20 September 2016

WESTERN CAROLINA UNIVERSITY

By: David O. Belcher

Name: David O. Belcher

Title: Chancellor

Date: 20 September 2016

CHARLES KOCH FOUNDATION

By: Brian Hooks

Name: BRIAN HOOKS

Title: PRESIDENT

Date: 9/20/16

ATTACHMENT A

Proposal to Support the WCU Center for the Study of Free Enterprise (CSFE)

This proposal is made pursuant to the "Authorization to Establish a New Center" approved by the Western Carolina University Board of Trustees on December 2, 2015.

Mission

CSFE's mission is to provide economics research and thought leadership on issues pertaining to economic development in North Carolina, the region, and beyond, by conducting scholarly inquiry, policy analysis, educational activities, and community outreach on the role of free enterprise in a flourishing society.

CSFE Programs

Salary and benefits for administrative and support personnel

CSFE will establish and maintain a personnel structure consisting of an advisory board, director, core faculty, faculty affiliates, student affiliates, and administrative support to successfully pursue its goals and missions. The salary and benefits for administrative and support personnel will be determined according to normal University policies.

Research reports on timely economic development policies; Host and disseminate CSFE research findings

CSFE will produce and distribute a number of externally peer-reviewed research reports on timely and important topics related to economic development. CSFE will host conferences and other public events to discuss and disseminate CSFE research findings.

Scholarships for affiliated students

CSFE will sponsor student scholarships for research assistance and faculty-student research projects.

Research seminars, workshops, speaker series, teacher training seminars, conferences, and other events. Publishing, distribution, outreach. Student travel and faculty travel to present at conferences, on college campuses, and before business & community groups.

CSFE will conduct the following activities:

- Host research seminars, workshops, and other events to support the development of sound research reports.
- Host a guest speaker series on campus, open to the campus and community, to pursue the CSFE's mission as described above.

- Provide content and host training programs for K-12 teacher education in the area of free enterprise.
- Fund CSFE faculty travel to present at professional conferences, on college campuses, and before business and community groups.
- Fund student affiliates travel to present at student research conferences (e.g. National Conference on Undergraduate Research) and jointly with CSFE faculty at professional conferences.

CSFE Advisory Board

The CSFE advisory board will consist of faculty members from multiple disciplines on campus and beyond, as well as distinguished members of the community from the private and public sectors. The CSFE director, advisory board, and University administration are responsible for establishing governance procedures and clear mechanisms, enforced by faculty governance and administrative oversight, to ensure compliance, transparency, academic freedom, and adherence to CSFE's mission.